



HART

# Large-Scale Developments in Burma

## Uncovering Trends in Human Rights Abuse

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With international companies flocking to Burma to get a piece of their rich natural resources, development must be managed sustainably in order to prevent further human rights abuses.

*'Over the last few years, Burma has seen a significant influx of humanitarian aid and international investment. There is no doubt that these investments can have a positive impact on the country, but there is also the very real risk that foreign aid and investment may result in further disenfranchising groups that are already marginalized. Many people have been forced to relocate or had their land confiscated to make way for development projects. Development projects run the risk of negatively impacting health and the environment.'*

- Dr Cynthia Muang – Director of Mae Tao Clinic<sup>1</sup>

## **Introduction**

Since countries started lifting their sanctions on Burma following the General Election of 2010 and subsequent democratic and economic reforms in 2010-11, international companies have been flocking to get a piece of Burma's rich natural resources. Large-scale developments in the country include mines for copper and gold, dams for electricity, roads and railways, and are often located in purposefully created Special Economic Zones (SEZs). Since economic reforms began, the economy of Burma has grown rapidly through foreign investment and development. According to the World Bank, in the 2013-2014 Financial Year the Burmese economy grew by 8.3%<sup>2</sup>, and in the next year, this rate could increase to 8.5%. This growth could be viewed as a step towards a flourishing and rich country. However, these developments have not been matched in terms of wealth and welfare support on the ground. 32% of children suffer from malnutrition<sup>3</sup>, only a small drop from pre-reform numbers of 34% in 2005<sup>4</sup> and there are insufficient education and medical services whilst fighting continues in ethnic minority areas and has again intensified in recent weeks. This development must therefore be viewed in the context of a corrupt military system, a terrible human rights track record and a civil war with ethnic minorities spanning almost 60 years. As a result, whilst the rich are getting richer, the poor are getting much poorer<sup>5</sup>.

Most developments are taking place on 'borderlands' and in ethnic minority areas<sup>6</sup> and to make way for these developments, thousands have been forcibly displaced or relocated, losing livelihoods with insufficient (if any) compensation, and finding themselves at risk of violence and abuse due to increased military presence in the regions. Environmental destruction is also damaging livelihoods and causing serious health concerns.

This report will look at large-scale developments in Burma, and the detrimental impacts that they are having on local communities. Due to the myriad issues surrounding these developments, a number of projects such as the Tamanthi Dam have failed, meaning that the uprooting and destruction of livelihoods were of no avail – a warning to future investors as well. To demonstrate this in more detail, the report will consider the key problems resulting from large-scale developments and will highlight a trend of human rights abuse through four case studies. The most prominent violations of human rights revolve around forced relocation, and land grabbing without prior warning in some cases, environmental destruction, lack of transparency, and unacceptable living standards in relocation sites. The report will then consider how the Burmese government, foreign investors and the international community can ensure that future projects are completed responsibly through cooperation with the local population. The hope is that this report may be used to inform prospective developers of the context and issues to prevent future human rights abuse and destruction of livelihoods; instead encouraging development that is sustainable and benefits the local community.

<sup>1</sup> Health Information System Working Group (HISWG), (2015) *The Long Road to Recovery: Ethnic and Community Based Health Organisations Leading the Way to a Better Health in Eastern Burma*, found at [http://hiswg.org/wp-content/uploads/2015/02/The-Long-Road-to-Recovery-2015\\_Eng-1.pdf](http://hiswg.org/wp-content/uploads/2015/02/The-Long-Road-to-Recovery-2015_Eng-1.pdf), p4.

<sup>2</sup> The World Bank, (2014), *Myanmar Overview* found at <http://www.worldbank.org/en/country/myanmar/overview>.

<sup>3</sup> Ibid.

<sup>4</sup> United Nations Development Program (UNDP), (2012), *Eradicate Extreme Hunger and Poverty*, found at <http://www.mm.undp.org/content/myanmar/en/home/mdgoverview/overview/mdg1.html>.

<sup>5</sup> Steinberg, David, (2014), *Reexamining Growth and Poverty in Myanmar*, found at <http://asiafoundation.org/in-asia/2014/06/25/reexamining-growth-and-poverty-in-myanmar/>.

<sup>6</sup> Buchanan, John; Kramer, Tom and Woods, Kevin (2013) *Developing Disparity: Regional Investment in Burma's Borderlands*, (Transnational Institute: Amsterdam), found at <http://www.tni.org/sites/www.tni.org/files/download/tni-2013-burmasborderlands-def-klein-def.pdf>.

## **Recommendations:**

### **For the Burmese Government:**

- Work to promote a peaceful end to conflict in the ethnic minority areas.
- Ensure that the local population is the main priority when considering future investment for large-scale developments.
- Develop acceptable guidelines for environmental and social impact assessments before a project begins.
- Ensure that the population will experience some benefits from the development in the form of employment, greater electricity etc depending on the nature of the project.
- Adhere to the Foreign Investment Law (2012)
- Conduct development projects with complete transparency ensuring that decisions are made in conjunction with local communities.
- Consult with local communities before projects begin and during the process.
- If relocation is unavoidable, ensure that the process complies with international standards. This should include the provision of adequate compensation, and good living conditions in the relocation site.
- Provide alternative training means for any who lose their livelihoods

### **For Potential and Current Investors:**

- Ensure clear and open communication with the local community to gather their concerns and ensure they are fully aware of the plans and how it will affect them.
- Undertake thorough environmental and social impact assessments before a project begins, with involvement of the local community.
- Ensure that the population will experience some benefits from the development in the form of employment, greater electricity etc depending on the nature of the project.
- If relocation is unavoidable, closely monitor the process so that it complies with international standards.
- Pressure the Burmese authorities to adhere to their Foreign Investment Law approved in November 2012
- Provide sufficient compensation for those negatively affected.
- Ensure that the project is built sustainably, taking care not to destroy farmlands and forest in an ad hoc nature and making necessary compensation if livelihoods are destroyed.

### **For the International Community:**

- Continue to pressure the Burmese government to find a peaceful solution to conflict
- Pressure foreign companies to ensure that local populations are not exploited in the process of large-scale developments.
- Ensure that environmental and social assessments are carried and the results comply with international standards.

## **Background**

Burma is still very much a rural economy. It has been estimated that around 66 percent of the population live in rural areas working in agriculture, hunting or forestry while many who work outside of agriculture but have their own land, often supplement their incomes and nutrition through the growth of their own crops<sup>7</sup>. Land is frequently passed down through families, often without official papers of ownership and recognised only through customary

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<sup>7</sup> Physicians for Human Rights (PHR), (2014) *A foreseeable Disaster in Burma: Forced Displacement in the Thilawa Special Economic Zone*, found at [http://www.burmalibrary.org/docs20/PHR-2014-11-Burma-Thilawa\\_Report-en.pdf](http://www.burmalibrary.org/docs20/PHR-2014-11-Burma-Thilawa_Report-en.pdf), p9.

laws<sup>8</sup>. Many have lived on the same land for generations<sup>9</sup>. However, they face increasing threats to their livelihoods, with land seizures legally facilitated<sup>10</sup> by the government: *'The lack of formal land tenure and use rights... threatens the livelihoods and food security of smallholders in upland areas. In many ethnic communities customary laws govern the right to use land. However, state officials seldom respect customary rights and the state does not legally recognize traditional upland swidden cultivation (taungya)'*<sup>11</sup>.

The reliance on the land could be related to the political situation in Burma. Civil war, dictatorship and corrupt military rule have haunted the country for years from the military coup led by General Ne Win in 1962 through to the military takeover in 1988. Whilst democratic reforms and elections have taken place, the military still reserves 25% of parliamentary seats under the 2008 constitution as well as the right to veto an election result, retaining a great deal of power for the military. Ethnic minorities in particular have been greatly persecuted under these regimes. They have been prevented from having a good education, denied healthcare facilities, used for forced labour or even taken as child soldiers. Through war, many were forced deeper into the jungle to escape military persecution. The upheaval and constant destruction has undoubtedly contributed to the lack of infrastructure, industrial development, and a subsequent reliance on the land.

Although democratic reforms are taking place, ongoing tensions between the military and ethnic armies have detrimental impacts for governmental activity and have resulted in a lack of recognition for the needs of people in ethnic minority communities. A recent report found that 70% of those surveyed relied on medical care from ethnic or community health organisations whilst only 8% had access to government healthcare<sup>12</sup> demonstrating the lack of state support for these communities. To date, fighting between the Burmese military and ethnic armies has resulted in approximately 2 million people being displaced<sup>13</sup>, either as IDPs or refugees. Ceasefires have been signed and broken, often within a matter of hours, damaging the trust of local citizens. Human rights abuses have been committed systematically by the Burmese military, destroying relations with ethnic communities. As a result, any growth in military presence such as happens in preparation for large-scale developments, makes the local population vulnerable to abuse and ill at ease.

### **Problems of Large Scale Developments**

It is in this context that one must consider the impacts of large-scale developments for local people in communities affected. Corporate social responsibility (CSR) has become a key part of the discourse surrounding economic development and Foreign Direct Investment (FDI) in Burma<sup>14</sup>. But the reality on the ground far from recognises this. '[M]ega dams have gone hand in hand with human rights violations in Burma' in the form of forced displacement, forced labour and land grabs<sup>15</sup>. The lack of transparency and information to local people who will be affected has allowed high-risk investors to act irresponsibly with minimal repercussions<sup>16</sup> and the public have not been involved in discussions further eroding trust to the point where many have argued that large-scale developments are fuelling conflict and have the potential to cause future civil wars<sup>17</sup>.

<sup>8</sup> Buchanan et al. *Op Cit*, p43.

<sup>9</sup> Ibid, p39.

<sup>10</sup> The Human Rights Foundation of Monland – Burma (HURFROM), (2015), *Yearning to be Heard: Mon Farmers' Continued Struggle for Acknowledgement and Protection of the Rights*, found at <http://rehmonnya.org/reports/in-pursuit-of-justice.pdf>, p23.

<sup>11</sup> Buchanan et al., *Op Cit*, p43.

<sup>12</sup> HISWG, *Op Cit*, p6.

<sup>13</sup> UNHCR, (2015), *2015 UNHCR country operations profile – Myanmar*, found at <http://www.unhcr.org/pages/49e487d6.html>.

<sup>14</sup> Burma Campaign UK, (2014), *Burma Briefing: Trade, Development, and the smokescreen of CSR*, found at <http://burmacampaign.org.uk/media/Trade-development-and-the-smokescreen-of-CSR1.pdf>.

<sup>15</sup> Karen Environmental and Social Action Network (KESAN), (2014), *Impacts of Large-Scale Hydropower on Burma's Salween River*, found at [http://www.greengrowthdialogue.org/sites/greengrowthdialogue.org/files/publication\\_docs/KESAN\\_Hydropower\\_GreenLotus\\_Oct18\\_2014\\_0.pdf](http://www.greengrowthdialogue.org/sites/greengrowthdialogue.org/files/publication_docs/KESAN_Hydropower_GreenLotus_Oct18_2014_0.pdf).

<sup>16</sup> Ibid.

<sup>17</sup> Buchanan et al., *Op Cit*, p21.

The problem of large-scale developments in Burma, the lack of information and consultation with local people, and the blatant disregard for human rights is an issue that will continue to grow with greater international demand for Burma's resources. If these projects are not conducted in a sustainable manner, there will be massive repercussions in the future. It is therefore vital that we learn about the effects of these developments and consider the recommendations for better conduct. It may be possible to end this inhumanity before it leads to another human disaster. Multiple investigations and reports (such as Amnesty International's *Open for Business?*, Health Information System Working Group (HISWG) *The Long Road to Recovery*, and Tavoyan Women's Union (TWU) *Our Lives Not for Sale* among others) have been conducted by various organisations highlighting the problems associated with individual projects. This report compiles much of this evidence to demonstrate that there is a general and worrying trend in human rights abuses that are committed across the board. This shows that the Burmese government is systematically ignoring international conventions on human rights and the guidelines that they themselves have made.

### **Corruption and Lack of transparency**

All people affected by large scale developments have noted a lack of transparency. Some have reportedly not even known that a development was taking place until building work started in their farm land<sup>18</sup>. A UMEHL factory making sulphuric acid for mining was built without government permission<sup>19</sup> taking land and homes from those in the area, with no repercussions. In contrast, the project was given government approval three years later with no attempt for an explanation. *'[I]n some cases the Ministry of Defence has sold confiscated land to private companies for a handsome profit'*<sup>20</sup> showing that the military is able to exploit these situations for their own benefit. Some powerful individuals and military owned companies are gaining a monopoly in this sector, confiscating land, and digging up people's livelihoods without any consultation with those affected<sup>21</sup>. For example, at the Letpadaung mine building between 2011 and 2014, villagers were told that machines would be going through their land and compensation would be made for lost crops, but none were forewarned about evictions or land acquisitions which they only became aware of when building began on their farms<sup>22</sup>.

*'Despite the investments in resource extraction in the borderlands, local activists complain that the profits have not been reinvested in promoting local development. There is little physical and communication infrastructure, and most communities lack electricity. Many investments take place in the absence of consultation with community leaders.'*<sup>23</sup>

### **Land confiscation**

Land confiscation is not a new problem in Burma - over history it has been committed for multiple reasons including *'to assist government-backed infrastructure and development projects, to facilitate base expansions, to cover operating costs and for the personal gain of military personnel'*<sup>24</sup>. Land is often confiscated *'without prior consultation or warning'*<sup>25</sup>.

One key contributor to this is the lack of land rights and respect of customary land law by the military. Under the 2012 land laws, land registered with a Land Use Certificate (LUC) may still be seized by the State, who is considered the ultimate owner of all land in the country<sup>26</sup>. Whilst people are able to cultivate the land under the land laws, the government can reclaim it. The Land Use Certificate (LUC) created by the government in 2012 to portray private

<sup>18</sup> Amnesty International, (2015) *Open for Business? Corporate Crime and Abuses at Myanmar Copper Mine*, found at [http://www.burmalibrary.org/docs20/AI-2015-02-10-Open\\_for\\_Business-en-red.pdf](http://www.burmalibrary.org/docs20/AI-2015-02-10-Open_for_Business-en-red.pdf), p5.

<sup>19</sup> Ibid, p5.

<sup>20</sup> HURFOM, *Op Cit.*, p17.

<sup>21</sup> Buchanan et al., *Op Cit.*, p39.

<sup>22</sup> Amnesty International, *Op Cit.*, p5.

<sup>23</sup> Buchanan et al., *Op Cit.*, p16

<sup>24</sup> The Human Rights Foundation of Monland – Burma, *Op Cit.*, p16.

<sup>25</sup> Ibid, p18.

<sup>26</sup> Centre for Strategic and International Studies (CSIS), (2012), *Land Reform: A Critical Test for Myanmar*, found at <http://csis.org/publication/land-reform-critical-test-myanmars-government>.

ownership has not helped to prevent land confiscations<sup>27</sup>. Many farmers rely on customary laws and do not have the correct documentation for proof of ownership making challenging land confiscation extremely difficult<sup>28</sup>. The government can be held responsible for neglecting to distribute the legal papers that they require and should therefore rectify this in order to prevent the haphazard and utterly destructive current system of land grabbing which has intensified due to increases in FDI and large-scale developments. Rural populations have reported growing numbers of *'land grabs in relation to recent large-scale development, infrastructure and state-led investment projects'*<sup>29</sup> and CBOs predict that cases of land confiscation are set to rise. Karen Human Rights Group (KHRG) has collected reports on thousands of acres of land confiscated for natural resource extraction and agricultural, industrial, and development projects (individual reports can be found on their website<sup>30</sup>).

### Forced Relocation

In conjunction with land confiscation, many have been forced from their homes to make way for development and relocated. In some cases forced displacement was *'implemented without consulting, compensating, or notifying communities affected by the projects'*<sup>31</sup>. Land has been confiscated by various civil and military state authorities, foreign and domestic companies and armed ethnic groups and the nature of the relocation procedure is far from compliant with human rights standards. For a relocation to be compliant with international standards, such as those set by the International Finance Corporation of the World Bank Group<sup>32</sup> and the United Nations<sup>33</sup> it must follow the following principles:

- Relocation should be avoided and if it is not avoidable, all efforts should be made to ensure that it is minimized by reviewing project design for example.
- Those who are relocated should not suffer worse standards of living after relocation and any resettlement plan should allocate sufficient and consistent resources and compensation.
- Community engagement should be called upon during planning and all stages of implementation and there should be a grievance mechanism in place.
- Those affected should benefit from the development process on a sustainable basis.
- There should be a legal forum in which people facing relocation can challenge either the substance (for example, the argument that relocation is the only option) and/or the process.

Contrary to these guidelines, a study completed by the Physicians for Human Rights (PHR) found that residents felt threatened by the government with lawsuits and imprisonment if they did not move<sup>34</sup>. In 2011, KHRO reported that 2,400 people were relocated at gunpoint and forced to sign a document to say that they moved voluntarily to make way for the Tamanthi Dam development<sup>35</sup>. Some of the displaced were given *'no compensation nor new homes'* as well as losing livelihoods<sup>36</sup>. Others that have been compensated reported that the amount was insufficient<sup>37</sup>. Buchanan et al reported that *'in the relocation village there are no livelihoods. The compensation they receive is not suitable, because the land is far away and the quality of the houses is bad. The Chinese company gives compensation*

<sup>27</sup> HURFOM, *Op Cit.* And HISWG, *Op Cit.*

<sup>28</sup> Displacement Solutions, (2014), *Land Rights and Mine Action in Myanmar*, found at [http://displacementsolutions.org/wp-content/uploads/DS-Do\\_No\\_Harm.pdf](http://displacementsolutions.org/wp-content/uploads/DS-Do_No_Harm.pdf).

<sup>29</sup> HURFOM, *Op Cit.*, p16.

<sup>30</sup> Karen Human Rights Group (KHRG), list of reports on land confiscations found at <http://www.khrg.org/reports/issue/land-confiscation>.

<sup>31</sup> HISWG, *Op Cit.*, p40.

<sup>32</sup> International Finance Corporation, (2012), *Performance Standard 5: Land Acquisition and Involuntary Resettlement*, found at [http://www.ifc.org/wps/wcm/connect/3d82c70049a79073b82cfaa8c6a8312a/PS5\\_English\\_2012.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/3d82c70049a79073b82cfaa8c6a8312a/PS5_English_2012.pdf?MOD=AJPERES).

<sup>33</sup> United Nations, (N/A), *Basic Principles and Guidelines on Development-Based Evictions and Displacements*, found at [http://www.ohchr.org/Documents/Issues/Housing/Guidelines\\_en.pdf](http://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf).

<sup>34</sup> PHR, *Op Cit.*, p5.

<sup>35</sup> The Kuki Women's Human Rights Organization (KWHRO), (2011) *Stop Damming the Chindwin*, found at [http://www.burmalibrary.org/docs12/Stop\\_Damming\\_the%20Chindwin-red.pdf](http://www.burmalibrary.org/docs12/Stop_Damming_the%20Chindwin-red.pdf).

<sup>36</sup> O'Connor, Brennan, (2013) *Thousands displaced by Myanmar dam*, (Aljazeera: Chiang Mai), found at <http://www.aljazeera.com/indepth/features/2013/03/2013313165427804481.html>.

<sup>37</sup> Shan Farmers' Network, (2014) *Eastern Shan State villagers call for immediate end to destructive gold mining operations*, found at <http://www.shanwomen.org/publications/press-releases/101-press-release-by-the-shan-farmers-network>.

through other people, and thus people wonder how much the company has really given. Nobody knows the exact compensation rate'<sup>38</sup>. Similarly, PHR reported that offers of compensation were 'made under threat of arrest for noncompliance' - 93% said that they felt threatened and afraid of what would happen if they refused to move<sup>39</sup>.

In addition to threats to move and insufficient if any compensation, the relocation sites house people in unacceptable conditions. As already stated, those relocated not only lose their homes, but their land and livelihoods as well, whether this is farming or other forms of employment. They have been moved to a much smaller site, with no farmland and no jobs available. Some are only given a plot of land, without even basic materials to build homes. People have to attempt to build from materials they can find, as compensation has not covered this meaning that many live in temporary accommodation, with plastic sheeting as roofs<sup>40</sup>. Facilities are also inadequate and it was reported that in one camp, the little water available was contaminated with human faeces and bacteria<sup>41</sup>. At another site, some land was provided, but it was far away and so high that it was almost infertile and impossible to irrigate<sup>42</sup>. Sites such as these do not meet international standards for refugee camps<sup>43</sup>. However these relocation schemes are evidently pre-planned to allow for large-scale development. As a result, one would expect far better conditions than that of an emergency refugee camp. When foreign companies were questioned on the issue of forced relocation to places with terrible living conditions, they said that the responsibility lied with the Burmese Government<sup>44</sup>. Yet both companies and the Government are evidently acting highly irresponsibly and unsustainably.

### Environmental Damage

A further unsustainable impact of the destructively managed large-scale developments in Burma is the environmental damage caused by many projects. The most prominent issues are associated with mining projects. Chemical waste used to extract the raw materials is reportedly disposed of in rivers such as the Chindwin River<sup>45</sup>. These rivers are heavily relied upon by local communities for irrigation to crops, and sanitation. As a result, many have been negatively affected by this destructive waste. The Shan Farmers Network reported last year that '*Over ten companies have been carrying out mining in the "Loi Kham" hills east of Ta Ler, Tachilek township, since 2007. They have dug up over eleven square miles of forested hillsides, and used large amounts of cyanide to extract gold. The resulting soil erosion and water pollution have destroyed the farming livelihoods of about 340 people in two nearby villages, Na Hai Long and Weng Manaw*'<sup>46</sup>. People have reported skin diseases, blindness, animals dying and the destruction of farmland and rice fields<sup>47</sup>. On top of these immediate impacts, the repercussions surrounding the destruction of fields and farmland for example have meant that some can no longer afford to send their children to school and others are unable to work<sup>48</sup>. Again these damages are all incurred with little or no compensation.

Furthermore, in logging schemes and to make way for road building, trees have been cut down at large rates and rivers and streams have been polluted, killing fish and making drinking water dirty and unusable, forcing some villagers to buy purified water<sup>49</sup>. Since 96% of people interviewed by the Dawei Development Association (DDA) near the Dawei SEZ area said that they rely on shallow water from wells for drinking water, it is important that these

<sup>38</sup> Buchanan et al., *Op Cit.*, p38.

<sup>39</sup> PHR, *Op Cit.*, p14.

<sup>40</sup> KWHRO, *Op Cit.*

<sup>41</sup> PHR, *Op Cit.*, p6.

<sup>42</sup> KWHRO, *Op Cit.*

<sup>43</sup> Ibid.

<sup>44</sup> Business and Human Rights Resource Centre, (2014), *Myanmar: Thilawa Special Economic Zone – summary of impacts, company responses and updates*, found at <http://business-humanrights.org/en/myanmar-thilawa-special-economic-zone-%E2%80%93-summary-of-impacts-company-responses-and-updates-0>.

<sup>45</sup> Buchanan et al., *Op Cit.*, p39.

<sup>46</sup> Shan Farmers Network, *Op Cit.*

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> Dawei Development Association (DDA), (2014), *Voices from the Ground: Concerns Over the Dawei Special Economic Zone and Related Projects*, found at [https://docs.google.com/file/d/0B7RHJhJq\\_neUcnVhcjRicZRhRTQ/edit?pli=1](https://docs.google.com/file/d/0B7RHJhJq_neUcnVhcjRicZRhRTQ/edit?pli=1).

sources do not become polluted<sup>50</sup>. Environmental damage has been a great source of tension for many affected and all of the issues mentioned above have resulted in protests by local communities.

### Protest

Due to some democratic reforms and more leeway in political activity, there has been an increase in active protest against such large-scale developments and their impacts. This has not necessarily been without punishment. People have been arrested and even killed for standing in the way of these money-making plans.

Surrounding the Monywa Project, peaceful protests by villagers were '*met with excessive use of force by police*' which included the killing of a woman on 22<sup>nd</sup> December 2014. Prior to that, in November, peaceful protest camps set up around the Wanbao compound were '*attacked with fire bombs of white phosphorus causing lifelong disabilities and burns*'<sup>51</sup>. These actions constitute torture under international law.

Other examples of protests can be found near any large project. Farmers from Thegon Township have held public protests and sent more than 60 letters of complaint to 25 government departments<sup>52</sup>. Four men were charged for protesting without official permission. The Asian Human Rights Commission '*maintained that during the course of their arrest police assaulted a number of the demonstrators leading to two women being hospitalised*'<sup>53</sup>. These are just two examples among hundreds. It is clear that large-scale developments are worsening relations between ethnic minorities (who are worst affected by these schemes) and the government. This has resulted in an increase in the final impact of large-scale developments explored in this report: conflict.

### Conflict

*'The need to secure control over the abundant natural resources in the ethnic areas is the main source of the conflicts as well as the increase in incidents of land confiscation. Massive displacement continues as a result.'* Dr Cynthia Muang – Director of Mae Tao Clinic<sup>54</sup>

Multiple local CBOs including KESAN, KIO and SHRF have argued that the struggle for resource control is a key driver of conflict in ethnic minority areas. SHRF stated that the military offensive in the Shan state is an attempt to gain control of the resource-rich region, arguing that the Government has already sold off '*numerous concessions to local and foreign investors without waiting for political dialogue and federal reform*'<sup>55</sup>. In addition, KESAN argued that when one party exploits those resources, it undermines the trust needed for agreements over resource control and sharing<sup>56</sup>.

The disputed large-scale developments bring with them an increase in military presence. This is threatening for nearby communities who have suffered a multitude of human rights abuse by military personnel in the past and are consequently fearful<sup>57</sup>. As well as threatening the local community, in areas already rife with tension and conflict, this increases the propensity for further fighting. One example of a direct correlation between fighting and large scale developments is from Kachin State where a ceasefire with the KIO broke down in June 2011 after '*Tatmadaw troops attacked KIO positions near another hydroelectric dam close to the Chinese border*'<sup>58</sup>. Most recently, Kunlong dam was to be the first of 43 new dams proposed to be built by Chinese and Thai investors, was cancelled due to

<sup>50</sup> Ibid.

<sup>51</sup> Amnesty International, *Op Cit.*, p6.

<sup>52</sup> Karen News, (2014), *Human Rights Group Warn a 'Frenzy' of Land Confiscation for Mining, Logging and Dams in Burma Destroying lives*, found at <http://karennews.org/2014/05/human-rights-groups-warn-a-frenzy-of-land-confiscation-for-mining-logging-and-dams-in-burma-destroying-lives.html/>.

<sup>53</sup> Ibid.

<sup>54</sup> HISWG, *Op Cit.*, p4.

<sup>55</sup> Shan Human Rights Foundation (SHRF), (2014) *Statement by Shan Community Based Organisations: President Obama must as Burma's government why it is launching a large scale offensive in central Shan State during the peace process*, found at <http://www.shanhumanrights.org/index.php/news-updates/201-october-22-2014>.

<sup>56</sup> KESAN, *Op Cit.*

<sup>57</sup> Ibid.

<sup>58</sup> Buchanan et al., *Op Cit.*, p21.



increased conflict<sup>59</sup> and at other sites, fighting around the Hat Gyi Dam site led to 200 people being forced to flee into Thailand and another 500 were displaced from Wabotaung Village becoming IDPs near Upper Myaingyi Ngu<sup>60</sup>. It is therefore clear to see that *'rather than investment projects catalysing development by offering socio-economic benefits to local communities, many border areas suffer some of Asia's poorest living standards'*<sup>61</sup>, having to face increased fighting and greater vulnerability to human rights abuses including forced relocation, no compensation, loss of livelihoods and worsening living conditions with no compensation and little recourse for complaint.

## International Community

Local and international companies are acting severely irresponsibly. Whether they are not doing the necessary research into the context of the country and complex relations, not corresponding enough with local communities, or just turning a blind eye to human rights abuses being committed in order for huge amounts of money to be made, companies investing in these regions need to engage better with the community and ensure that their projects are not putting others in harm's way. Whilst the human rights situation in Burma has begun to decline again<sup>62</sup>, the rate of FDI is rapidly increasing. If stronger regulations are not enforced by the international community and particularly companies complicit in these violations of people's rights, the rate of forced relocation, loss of livelihoods and conflict are likely to increase. To give greater depth and a clearer picture of the problems raised, four case studies of different large-scale developments and their impacts on communities local to each project will be considered below.

## Case Studies

### 1. Tamanthi Dam (Chindwin River) – Destructive Failure

The Tamanthi Dam was to be built on the Chindwin River, a main tributary into the Irrawaddy River. It was planned to cover 1,396 sq km of land covering fertile farmland and displacing over 45,000 people<sup>63</sup>. The proposed dam site location ran parallel to the Sagaing Fault line which experienced two earthquakes, one a magnitude of 6.2 in February 2011<sup>64</sup>. Despite these findings, the dam project still continued and was not cancelled until 2013<sup>65</sup>. The Tamanthi Dam was to be built as a collaboration between India's National Hydroelectric Power Corporation (NHPC) and the Department of Hydropower Implementation (DHPI) of Myanmar and was predicted to export 80% of the electricity capacity to India<sup>66</sup>. Although the dam project has now been disbanded, thousands were displaced before the work even started and the irresponsible planning of the government and the companies involved, as well as the human rights violations suffered by local people affected is deplorable.

To begin with, more than 2,400 people were reportedly forced from their homes at gunpoint<sup>67</sup> with little or no compensation before the dam construction even started<sup>68</sup>. The area around the dam was completely deforested<sup>69</sup> and despite the fact that the Dam was set to bring about massive changes to the region, KWHRO reported at the time that *'the entire dam process has been shrouded in secrecy, and there has been a complete lack of public participation in decision making'*<sup>70</sup>. They found that those being relocated were forced to move to a specific area (Shwepyey Aye Relocation site) where they were given housing plots but no building materials or support for the

<sup>59</sup> Action for Shan State Rivers, (2015) *Statement on International Day of Action for rivers and Against Dams: March 4, 2015*, found at <http://www.burmalink.org/wp-content/uploads/2015/03/English-Statement-for-Shan-State-Rivers-March-14-2015-Final-2.pdf>.

<sup>60</sup> KESAN, *Op Cit.*

<sup>61</sup> Buchanan et al., *Op Cit.*, p28.

<sup>62</sup> Human Rights Watch, (2015), *Burma: Rights Heading in Wrong Direction*, found at <http://www.hrw.org/news/2015/01/29/burma-rights-heading-wrong-direction>.

<sup>63</sup> O'Connor, *Op Cit.*

<sup>64</sup> KWHRO, *Op Cit.*

<sup>65</sup> Burma Rivers Network, (2013) *Burma Rivers Network welcomes India's cancellation of Tamanthi Dam, urges China and Thailand to take similar environmental responsibility*, found at <http://burmariversnetwork.org/index.php/actions/press-releases/907-burma-rivers-network-welcomes-indias-cancellation-of-tamanthi-dam-urges-china-and-thailand-to-take-similar-environmental-responsibility>.

<sup>66</sup> KWHRO, *Op Cit.*

<sup>67</sup> O'Connor, *Op Cit.*

<sup>68</sup> KWHRO, *Op Cit.*

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

building of their houses (meaning many had to use plastic sheeting for roofs) and threatened with punishment if they moved anywhere else. Conditions in the relocation site are dire. KWHRO further reported that water is scarce, pipes dry up or provide dirty water frequently causing diarrhoea and there are few livelihood opportunities. Opportunities for work come from a saw mill working in dangerous conditions and little pay, or land which is far away and high with not enough water and no opportunities for irrigation. A cumulative result of lack of livelihoods and minimal compensation, people have reported that they cannot even afford to buy rice<sup>71</sup>.

Once the project had begun, and these thousands of people had been uprooted from their homes to terrible living conditions, it was eventually cancelled. Despite knowing that this dam would be too risky to build, the plans continued far further than they should have. People's lives have been turned upside down and for no avail. It is incredibly irresponsible for anyone to have considered the Tamanthi Dam in the first place. The failure of the project to be completed and the human rights violations committed in the process demonstrate a severe lack of consideration from all decision-makers. These should be taken into account in future development projects.

## 2. Dawei Special Economic Zone – Forced Relocation

The Dawei Special Economic Zone (SEZ) initiative began with a memorandum in June 2008<sup>72</sup>. The aim was to build an industrial centre including an oil refinery centre, fertilizer and petrochemical plant, steel mill, pulp and paper processing plant and much more<sup>73</sup>. All works so far have been carried out in the name of the Dawei Development Company Ltd. (DDC) a joint venture company owned by the Italian-Thai Development Company (ITD) (75 percent) and Max Myanmar (25 percent). Max Myanmar pulled out in 2013, so building has stalled in wait for a new partner<sup>74</sup>.

During the course of the development, actions have been taken with a complete lack of transparency and exclusion of local communities from decision-making around the project<sup>75</sup>. Villagers reportedly felt 'bullied' into leaving their homes<sup>76</sup>. Many, including the DDA have opposed the project due to land grabs, deforestation and the destruction of the environment and livelihoods<sup>77</sup>. As a result, one activist stated, '*we face a lot of problems because of this project. We do not see it as development*'. Livelihoods such as shell fishing and farming have been destroyed with farmland taken away and the SEZ blocking access to coastal areas<sup>78</sup>. Official figures predict that over 30,000 people will be relocated to make way for the project, although the DDA predicts that it could be much more and another report<sup>79</sup> concurs arguing that many more than predicted may lose their land due to direct and indirect land grabs '*by a more powerful class of foreign and domestic elites who are speculating on the region's potential economic growth and the subsequent rise in the demand for property*'<sup>80</sup>.

The potential for mass relocation is worrying, as the conditions for those displaced, as above, are far from adequate. In a 2011 survey, PHR found that '*households in or near the Dawei Special Economic Zone (SEZ) in eastern Burma were twice as likely to experience a human rights violation and 7.9 times more likely to experience forced labor*'<sup>81</sup> compared to others in a similar position. This was due to an increase in military presence and land rights violations in association with the development. Families are now facing food insecurity and many can no longer afford to send their children to school<sup>82</sup>. Tavoyan Women's Union (TWU) found that, '*due to food insecurity as a result of the*

<sup>71</sup> Ibid.

<sup>72</sup> Tavoyan Women's Union (TWU), (2014) *Our Lives Not for Sale: Tavoyan women speak out against the Dawei Special Economic Zone project*, found at [http://en.tavoyanvoice.com/wp-content/uploads/2014/12/OurLives\\_NotForSaleEng.pdf](http://en.tavoyanvoice.com/wp-content/uploads/2014/12/OurLives_NotForSaleEng.pdf), p3.

<sup>73</sup> DDA, *Op Cit*.

<sup>74</sup> Ibid.

<sup>75</sup> TWU, *Op Cit.*, pii.

<sup>76</sup> DDA, *Op Cit*.

<sup>77</sup> Buchanan et al., *Op Cit*, p38.

<sup>78</sup> TWU, *Op Cit*, pii.

<sup>79</sup> Elizabeth Loewen, *Land Grabbing in Dawei (Myanma/Burma): A (Inter)National Human Rights Concern*, (Transnational Institute), found at [http://www.tni.org/sites/www.tni.org/files/download/dawei\\_land\\_grab.pdf](http://www.tni.org/sites/www.tni.org/files/download/dawei_land_grab.pdf).

<sup>80</sup> Buchanan et al., *Op Cit.*, p38.

<sup>81</sup> PHR, *Op Cit.*, p7.

<sup>82</sup> TWU, *Op Cit.*, pi.

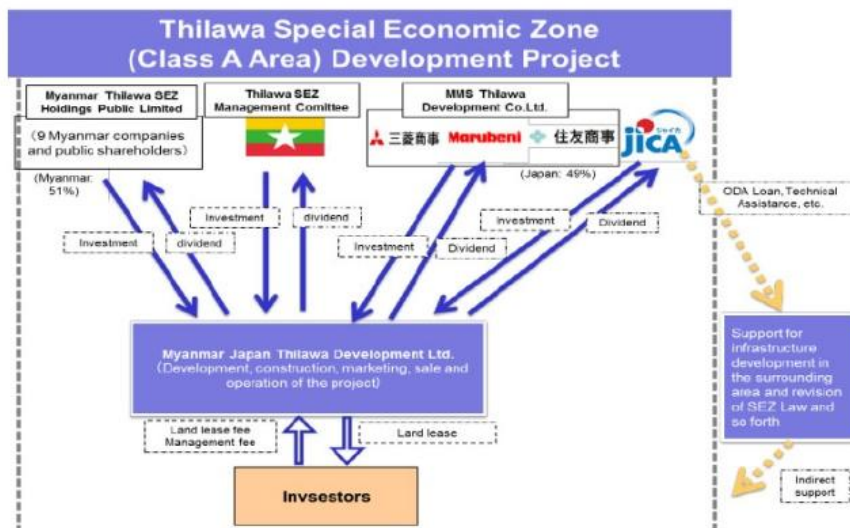
project, girls are increasingly being sent to work in Thailand to earn money to send back to their parents... Girls under 18 must travel illegally to Thailand, placing them at risk of trafficking, exploitation and abuse'<sup>83</sup>.

Those investing in the Dawei SEZ are therefore complicit in human rights violations of:

- Land confiscation
- Forced Relocation
- Forced labour
- Food insecurity
- Lack of education
- Human trafficking
- Destruction of livelihoods

### 3. Thilawa SEZ – Forced Relocation

Similar to the Dawei SEZ, the Thilawa SEZ has caused problems with relocation, loss of livelihoods with no alternative training and terrible living conditions. Japanese International Co-operation Agency (JICA) in cooperation with the Burmese government and some Burmese companies as well as Mitsubishi and other manufacturers are the key players in this development. The project was hailed by the JICA as a chance to encourage the return of refugees to the two states it plans to build in<sup>84</sup> and bring about peace in the region through development<sup>85</sup>. Though it has done nothing of the sort and has so far brought many problems.



'Project Schematic'<sup>86</sup>

In particular, the fact that JICA used prospects for peace and refugee repatriation to justify the development caused considerable alarm among local CBOs. KSPN argued that JICA's 'implicit belief' that poverty is the driver of conflict in Burma is misunderstood. Whilst they acknowledge that there is a key relationship between conflict and poverty, they argue that poverty is not the underlying cause in this instance as *'the Karen people's demand throughout the conflict has been protection of human rights and autonomy'* and the *'right to our culture and to control our own lives, natural resources and land'*<sup>87</sup>. Furthermore, *'refugees and internally displaced persons fled attacks by the Burmese military and the burning of over 3,000 villages; they did not flee "poverty"'*<sup>88</sup>. As a result of previous development issues, many were justifiably nervous about this development and due to greater leeway for opposition, many CBOs actively campaigned to try and ensure that JICA and the government complied with international guidelines.

<sup>83</sup> Ibid, pii.

<sup>84</sup> Snaing, Yen and Naing, Sen Yan, (2014) *Japanese Led Projects Risk Fuelling Conflict in Burma: Activists* (The Irrawaddy: Rangoon), found at <http://www.irrawaddy.org/burma/japanese-led-projects-risk-fueling-conflict-burma-activists.html>.

<sup>85</sup> Karen Peace Support Network (KPSN), (2014) *Critique of Japan International Cooperation Agency's Blueprint for Development in Southeastern Burma/Myanmar*, found at: <http://www.theborderconsortium.org/media/52396/2014-09-19-kpsn-report-en.pdf>.

<sup>86</sup> Japan International Cooperation Agency (JICA), (2014) *Private Sector Investment for the Thilawa Special Economic Zone (SEZ)*, found at [http://www.jica.go.jp/english/news/press/2014/140423\\_01.html](http://www.jica.go.jp/english/news/press/2014/140423_01.html).

<sup>87</sup> KSPN, *Op Cit.*, p11

<sup>88</sup> Ibid., p11

Unfortunately, despite their efforts, the Thilawa SEZ provides another example of the ‘*negative effects of development projects on the rights of local populations*’<sup>89</sup>. Taken from the Physicians for Human Rights (PHR) report, phase 1 of the project led to the forced displacement of 68 households whilst phase 2 is set to displace a further 846 households<sup>90</sup>. Although the government promised to follow international guidelines on displacement and has written mechanisms to allow this, the PHR, through interviewing 42.6% of households displaced, found that the process fell significantly short of international guidelines<sup>91</sup>. Families removed during phase 1 were not consulted and given a limited time to prepare belongings ready to move and the relocation village did not meet international standards for refugee camps. Given that the relocation was planned, it should actually be much higher than standards for refugee camps, yet wells and pumps were found to be contaminated with bacteria and human faeces and 89.7% of those surveyed said they did not have enough money to support their needs with 13.6% children suffering from mild malnutrition<sup>92</sup>. One reason for lack of funds could be the fact that farmers who lost their land were given no land to farm in the relocation area and those working in other sectors had to leave their jobs due to the distance of the camp being too far away. Neither of these groups were given alternative training to become employable in another field of work<sup>93</sup>.

Much like people facing relocation in other development zones, the process has again broken international regulations. The people were not involved in decision-making, they have been forced to leave and been relocated to a place in which they are more at risk of disease and malnutrition and unable to work meaning they are far worse off than they were before they moved.

JICA and other companies have been questioned about the impacts of their project, and have argued that whilst they ‘acknowledge problems with the resettlement’ with the process<sup>94</sup>, it falls in compliance with international standards and is overall the responsibility of the Burmese government to look after the people affected<sup>95</sup> this is a view also taken by Mitsubishi<sup>96</sup>. However, they have continued to develop despite an environmental impact assessment showing 11 areas of likely negative impact.

#### **4. Monywa Project – Environmental Destruction**

The final case this report considers is the Monywa Project which consists of Sabetaung and Kyisintaung (S&K) and the Letpdaung copper mines. The management of operations has changed hands multiple times during the project development which began in the late 1970s by a Myanmar government owned company, Mining Enterprise No.1 joined with the subsidiary of a Canadian company, Ivanhoe Myanmar Holdings Ltd. The project was then taken over by a Burmese Military company, Union of Myanmar Economic Holdings Limited (UMEHL) and China North Industries Corporation (NORICO) and has been managed by different subsidiaries of NORICO since then, in particular Wanbao but ‘*in 2013 the Government of Myanmar gained a stake in Letpadaung via ME1, which now receives 51% of the profits of the mine*’<sup>97</sup>. Again, this project has been guilty of forced evictions even up until 2014 when building began on farmers’ land without prior consultation, many of whom were then forced into manual labour on other people’s farms with thousands more<sup>98</sup>. Many that have been evicted were not resettled as the government simply nationalised the land meaning that villagers had to leave<sup>99</sup>. With the development of this project, thousands more are at risk of eviction or relocation.

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<sup>89</sup> PHR, *Op Cit.*, p5.

<sup>90</sup> *Ibid*, p14.

<sup>91</sup> *Ibid*, p5-6.

<sup>92</sup> PHR, *Op Cit.*

<sup>93</sup> *Ibid*

<sup>94</sup> Fox News, (2014), *Farmers versus factories a dilemma for Japan aid group in Myanmar’s showcase economic zone*, found at <http://www.foxnews.com/world/2014/05/29/farmers-versus-factories-dilemma-for-japan-aid-group-in-myanmar-showcase/>.

<sup>95</sup> Business and Human Rights Resource Centre, (2014), *Op Cit.*

<sup>96</sup> Thilawa Social Development Group, (2014), *Displaced Villagers File Complaint Regarding Japan’s Investment in Myanmar’s Thilawa Special Economic Zone*, found at <http://business-humanrights.org/sites/default/files/media/press-release-thilawa-jica-complaint-jun-2014-english.pdf>.

<sup>97</sup> Amnesty International, *Op Cit.*, p5.

<sup>98</sup> *Ibid*.

<sup>99</sup> *Ibid.*, p15.

In contrast to the other case studies, there is also much more evidence of environmental destruction and hazardous waste causing multiple problems for the local population. Approximately 25,000 people, in some 26 villages, live within five kilometres of the S&K and Letpadaung mines with the majority relying on agriculture for their livelihood<sup>100</sup>. These people are very vulnerable to damages to the environment as these can affect their livelihoods. To the local people's detriment, sulphuric acid is used in the mines and made in a factory operated by UMEHL, 200 metres from Kankone Village. Villagers from this village 'told Amnesty International that they suffer respiratory, skin and eye problems that they believe are caused by the factory'<sup>101</sup>. Furthermore, hazardous copper waste has been discharged over 150 acres of land and into the Chindwin River, contaminating ground water which villagers rely on<sup>102</sup>.

Wanbao has responded to allegations highlighted by Amnesty International claiming that compensation has been given, highlighting community investments in schools and medical services, as well as assessing environmental impacts. They did accept that '*during the consultation process, a number of environmental and technical issues were raised and these issues were able to be addressed and resolved*'<sup>103</sup>. However, the statements made do not clarify what the issues were or how they were solved. Furthermore, it appears that they are addressing issues directly related to the mining and could therefore be turning a blind eye to issues caused by the UMEHL sulphuric acid factory producing the chemicals used for mining<sup>104</sup>. Finally, whilst jobs were promised to local people, jobs have not been given, and the company gives no adequate explanation for this other than that the company is giving out some money instead. Considering the evidence uncovered by Amnesty International, it is clear that despite their apparent best efforts, Wanbao is not doing enough to ensure that local people are not mistreated.

As a result of these issues caused by the Monywa Project, Amnesty International concluded that '*despite a history of human rights violations surrounding the mine, a Canadian company, and subsequently a Chinese company, have invested without undertaking appropriate due diligence. Both Ivanhoe Mines and Wanbao Mining have built their business on a foundation of human rights abuse*'<sup>105</sup>.

### **Suggestions for improvement**

KSPN have argued that 'all long-term development prospects will fail without peace' and called for a 'temporary moratorium on large-scale development projects'<sup>106</sup>. Similarly, Amnesty International has stated that all operations should halt until effective safeguards for environmental and social assessments have been put in place. This would prevent further human rights abuse taking place under the guise of development and ensure that only responsible and sustainable FDI can take place to encourage economic development which is not detrimental to local communities. However, in the current economic climate and desperation for international companies to access the 'last frontier in Asia'<sup>107</sup>, it does not look likely that there is going to be a pause in investment. In fact, the government has released plans to increase hydropower capacity five-fold in the next 15-20 years<sup>108</sup>. As a result, it is vital that the projects that go ahead and the subsequent companies that invest in the region act responsibly and keep the Burmese Military accountable for their actions to ensure that local people are not subjected to further human rights abuses.

We hope that the evidence in this report will emphasise the monumental need for monitoring of FDI and the process of large-scale developments to ensure that they can go ahead and be successful for all involved.

<sup>100</sup> Ibid. P5

<sup>101</sup> Ibid., p5.

<sup>102</sup> Ibid., p6.

<sup>103</sup> Business and Human Rights Resource Centre, (N/A), *Response by Wanbao: Myanmar Foreign Investment Tracking Project*, found at <http://business-humanrights.org/en/response-by-wanbao-myanmar-foreign-investment-tracking-project>.

<sup>104</sup> Amnesty International, *Op Cit*.

<sup>105</sup> Ibid., 8.

<sup>106</sup> KSPN, *Op Cit.*, p3-7.

<sup>107</sup> JICA, *Op Ct*.

<sup>108</sup> Doran, D, Christensen, M and Aye, T, (2014), *Hydropower in Myanmar: Sector analysis and related legal reforms*, (DFDL Legal and Tax: Thailand), found at [http://www.dfdl.com/images/stories/140624\\_DFDL\\_Iss3.pdf](http://www.dfdl.com/images/stories/140624_DFDL_Iss3.pdf).

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